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Supreme Court, U.S.
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No. 08 -1306

IN THE SUPREME COURT of the UNITED STATES

Deborah Kay Hendrix, Angie Revell,
Phillip Hendrix III, Phyllis Attocknie,
Petitioners, whom are pro se; (FRCP 8.)

v.

Wallace Coffey, Ronald RedElk, Eddie Mahseet,
Lanny Asepermy, Janice Bigbee, as citizens of
the United States and of Oklahoma, whom are or
were members of Comanche Business Committee,
Donna Wahnee, a Comanche Enrollment clerk,
as a citizen of the United States and the State
of Oklahoma, all individually and together as
well as Kirke Kickingbird of Hobbs, Straus,
Dean & Walker, LLP and their representatives
involved in this case, William Norman, James
Burson, with said law firm and individually,

On Petition for a WRIT OF CERTIORARI to the
United States Court of Appeals for the
Tenth Circuit, No. 08-6161. Before Honorable Kelly,
Portfolio and O'Brien, Circuit Judges.

THIS IS PETITIONERS ANSWER TO RSPONDENTS BRIEF IN OPPOSITION

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PARTIES TO THE PROCEEDING

Pursuant to the Rule 14.1 (b), the following list represents all the parties appearing here and before the United States Court of Appeal for the Tenth Circuit

Petitioners are:

DEBORAH K. HENDRIX, ANGIE REVELL, PHILLIP HENDRIX III, PHYLLIS ATTOCKNIE

Respondents are:

WALLACE COFFEY, RONALD REDELK, EDDIE MAHSEET, LANNY ASEPERMY, individually, as citizens of the United States and State of Oklahoma, and as members of the Comanche Business Committee, JANICE BIGBEE individually, as citizen of the United States and State of Oklahoma and former member of the Business Committee; DONNA WAHNEE, individually, Tribal Enrollment Clerk, as a citizen of the United States and State of Oklahoma, KIRKE KICKINGBIRD; HOBBS, STRAUS, DEAN & WALKER, LLP

INDEX

Parties to the Proceedings i
Index ii
Cases and Authorities iii
Cases and Authorities continued iv
U. S. Constitution Pg. 1
USCA Const, Amend, Five ...Passim Pg. 3
USCA Const. Amend. Thirteen & Sec, 2, Passim Pg. 3

CIVIL RIGHTS STATUTES

USCA Civil Rights Act of 1866, 42 U.S.C.A.1982, 28 USCA s, 1343(4) ....Passim, Pg. 6

FEDERAL TREATIES & AGREEMENTS:

Federal Treaty of Medicine Lodge with the Kiowa, Comanche and Apache Indians of 1867; Agreements and treaty cessions, Section 6, (1967). Pg. 6

Jerome Agreement (In Form, a treaty) with the Kiowa, Comanche and Apache of 1867, U. S. Senate Executive Doc. No. 17, 52 Cong., 2nd Sess., Serial Set No. 3055, Vol. 1.4, January 1893... Passim, Pg. 5

ALLOTMENT ACTS IMPLEMENTING TREATIES AND CESSIONS

Act of February 8, 1887 (24 Stat. L., 366), as amended by Act of February 28, 1891, applied to the KCA Indians, their reserved lands theretofore held in common, ceding said lands to the United States without any reservation whatsoever of any kind or nature, for Allotments of said land in severalty and individual

ownership and the benefits expressed under Section 6, for said treaty of Medicine Lodge of 1867, eg, Federal government and internal police thereof applied by Act of June 6, 1900, held constitutional by LoneWolf v. Hitchcock, 187 U. S. 553 (1893). Pg.5

CASES & AUTHORITIES

1. U.S.C.A, Const. Amend 5, LoneWolf v. Hitchcock 187 U. S. 553 (1903) Pg.4
2. Choate v. Trapp, 224 U. S. 665-667, 78 (1912) accord, Pg. 3
3. Jones v. Meehan, 175 U. S. (1889), passim, Pg. 3
4. Antone v. Washington, 420 U. S. 194, 199-202 (1995) Pg. 3
5. Carpenter v. Shaw, 290 U. S. 363, 367, (1930) Pg. 3
6. Winters v. United States, 207 U. S. 564, 576 (1908)...Pg. 3
7. Washington v. Washington State Passenger fishing vessel Ass'n, 443 U. S. 658, 660 (1079). Accord...Pg. 3
8. United States v. Winans, 105 U. S. 371, 381 (1905) Pg. 3
9. Oneida County v. Oneida Indian Nation, 470 U. S. 226, 247 (1986) Pg.4
10. Santa Clara v. Martinez, 436 U. S. 49, 72 1978) Passim....Pg. 4
11. Talton v. Mayes, 161 U. S. 376, 384 (1896) passim....Pg.4
12. LoneWolf v. Hitchcock, 187 U, S. 553 (Jan 5, 1903), Pg. 6
13. U. S. v. Kagama, 118 U. S. 375 (6) (1866) passim Pg. 6
14. Princess Shams Parlava H.I.H. sued by Iranian Bank Melli; to enforce foreign judgments, No. 94 555 292 (June 29, 1995, U. S. 9th Cir. Ct. Apps 58 F. 3d 1406, 95 D. J. DAR 8741. . Pg. 8
15. Tillet v. Lujan, 935 F. 2d. 636, 640 (1991), Re: Sec, 6, Pg. 8
16. Treaty of Medicine Lodge of 1867 (jurisdictional cessions to USA by KCA tribes, subject matter Federal) passim. Pg. 8

PETITIONERS RESPONSE TO BRIEF IN OPPOSITION

The proper numbers to said Brief in Opposition should be 08-1306 and petitioners point out respondent Janice Bigbee is not now a member of the Comanche Tribe's Business Committee and respondent Donna Wahnee is not now and has never been a member of said Business Committee but is the federally program paid Enrollment Clerk.

Both women are sued individually as the other defendants each of who have insurance.

THIS IS PRIMARILY A CIVIL RIGHTS CASE over which federal jurisdiction extends under provisions of the Federal Treaty of Medicine Lodge of 1867 and implementing federal laws and constitutional requirements for reason this case, the subject matter, and controversy arises under the United States Constitution and their laws and treaties, which is a part of the Supreme Laws of the United States. The USA is sovereign. The Court has proper adequate jurisdiction and a duty to its citizens regardless of race, color or previous conditions of servitudes to protect their rights, and federal immunities and guarantees to equal protection under the laws, according to what those laws say, as well as to due process, for reason all United States Citizens are in the same boat insofar as the prohibitions against deprivation of another citizen's right can possibly do. That is, there can be no legal infringements, deprivations of any citizens' rights to basic inalienable rights anywhere in the United States of America, or which can be carried on outside the controlling law of the sovereign Supreme Law of the Land. Such seems to be the requirement of the American people, since due process and equal protection under the law contemplates protection of those inalienable rights of citizens to be free of legal

deprivation of the rights provided all citizens equally. That is to say, what is protected to a white or black person must apply to Indians, Hispanics, and others, or else the Thirteenth Amendment cannot afford prohibitions against disparate racial actions at all. This Court has acknowledged that Congress has power to require equality under the laws of the United States, anywhere in America, and this preempts the actions of all government, and officials and employees of all governments. Our federal government deals with in the protection of U. S. Citizens, or others, anywhere in America.

This Court has Jurisdiction of this matter as it is clearly provided. Congress has authority under the Commerce Clause and Treaty making power and authority to enact treaty-implementing laws even in Indian affairs. Their power has been held paramount, supreme and plenary. The Kiowa Comanche and Apache Indians have all been declared to be citizens of the United States by Section 6, of the Allotment Acts of February 8, 1887 (24 Stat. 388), as amended, as applied to the Kiowa, Comanche and Apache (KCA confederated tribes) pursuant to which allottees were to become U. S. Citizens (under sec, 6) and become subject to all the same laws, rights and immunities non-Indian citizens have, with all the protections, rights and immunities as apply to non-Indian citizens as well as state law would apply to allottees and whatever protection it accords to white persons would to the Indians. The original KCA allottees are dead and if remaining alive, they most likely are in the majority that long ago sold their allotments out of trust. The heirs are not allottees although some retain interests in allotted lands. There remains no Indian government interest in allotted lands. The KCA treaty Indians are not the KCA Indians of today. The treaty confederation was rescinded by recall of the treaty-confederated constitution. The 1967

Secretary of the Interior's recognition of a Comanche tribal constitution was for the purposes therein contained and no other. The purposes of the federal Governments administration of the affairs of the KCA Indians with respect to the grant of sovereign rights. KCA tribes once had, or has not been rescinded by Congress, and the rights created there under as well as under the Allotment Acts, for the original allottees and their heirs, including their United States citizenship is all the Comanche Indians of today retain. Those rights, regardless of dicta with reference to powers of Congress over said KCA Indians of America is more or less erroneous. (See: Choate v. Trapp,224 U. S. 665-76, 78 (1912), citing Jones v. Meehan, 175 U. S. 1, (1899) (Fifth Amendment U. S. Constitution case) recognizing the Fifth Amendment applies to rights which are created by allotment acts of congress is largely unrepealable by Congress as such rights are protected against repeal by the Fifth Amendment. Also, see: Antoine v. Washington, 420 U. S. 194, 199-200 (1975) (statute ratifying agreement) (collecting cases). Choate v. Trapp, supra, is the most important case under which all legislation of congress is analyzed.

Canons of interpretation are to the effect that "doubtful expressions are to be resolved in favor of the weak and defenseless people who are wards of the nation, dependent upon the protection and good faith." Carpenter v. Shaw, 290 U.S. 363, 367 (1930), accord Winters v. United States, 207 U. S. 564, 576-77 (1908). A treaty was not a grant of rights to the Indians, but a grant of rights from them a reservation of those not granted. Washington v. Washington State Com. Passenger Fishing Vessel Ass'n, 443 U. S. 658, 680 (1979, accord United States v. Winans, 198 U.S. 371. 381, (1905).

interpreting federal statutes, eg., the Court in County of Oneida v. Oneida Indian Nation, 470 U. S. 226, 247 (1986) said: "The canons of construction applicable in Indian law are rooted in the unique trust relationship between the United States and the Indians."

Petitioners are faced with Santa Clara Pueblo v. Martinez, supra, developed by lawyers that think they need to sacrifice the citizenship rights acquired by the Comanche Indians by simply stating that United States citizenship was only ostensibly provided by Congress and creates no rights to be accorded basic inalienable rights to Comanche Indians, such as due process and equal protection of the laws of the United States, at least in their lives. liberty and property insofar as the tribes go. They say Congress did not mean what it said by enacting the Civil Rights Act of 1866. The 13th Amendment to the U. S. Constitution, however, and Section 2, thereof, gives Congress the power and the authority to make that decision, and this Court has jurisdiction to answer that controversy more clearly than the Court has done. As alleged by respondents, to be "settled law" done by Santa Clara Pueblo v, Martinez, supra, which petitioners claim is a bald lie, which is not sanctioned as truth by the members of the Comanche Tribe, except by a few hoodlums that have been embezzling large sums of money. And the lawyers claim to be representing the Comanche Nation in this matter for they believe Santa Clara Pueblo v. Martinez will be a shield for every crooked unlawful act. It is erroneous to be claimed to be legal under "tribal law" which it certainly is not. That which is illegal under federal criminal or civil rights statutes is illegal.

The truth of the matter is that the KCA tribes ceded their lands and any sovereign rights they had to sell to government to the United States under the Sixth Section of the Treaty of Medicine Lodge for the benefits

then contained in said treaty. The KCA have been collecting.

This action was supplemented by the so-called Jerome Agreement of (1862); Senate Executive Doc. No. 17, 52 Cong., 2nd Sess., Serial Set No. 3055, Vol. 1.4 January (1893). Which was an agreement ceding all KCA tribal lands to the United States for allotments in severalty and individual ownership by allottees and their heirs out of said lands, so ceded, and other provisions of the treaty and said supplemental agreement.

Therefore, the government obtained lands and agreed to provide for by legislation the laws for alienation and descent of the reserved allotments, and to provide the government and laws, for every purpose of government, of KCA Indians and the inner police of the allotted lands. The treaty is still a portion of the Supreme Law of the Land. Regardless of Santa Clara Pueblo v. Martinez and Talton v. Mayes, neither of the decisions, can vitiate against the rights of the KCA Indians. There can be no tribe or government without the KCA Indian citizens of the United States and there have been no tribal further agreements of the KCA tribes, which would condone the application of the two dreaded decisions against their citizenship status. KCA Indians have endorsed federal jurisdiction and have never agreed to abandon the government's protection of the individual allotters and their heirs, but are grateful for the benefits they have received under the agreements and still receive.

They, as a people are preparing to ask the United States for full-fledged investigation into a major problem of embezzlement of tribal resources by the past two administrations of tribal officials, and there are indications their recent installation of a new Tribal Chairman and Tribal Administrator by the General Council, the governing head of the tribe will act... Lawyers are illegally taking the tribe for millions of dollars and have only been able to get away with it so

far, are that the Courts refuse the access to the courts as a threshold measure due to Santa Clara Pueblo v. Martinez, supra. It is an issue.

Certainly, Santa Clara Pueblo V. Martinez is a decision not meant to lessen the advancement of the KCA Indians or their entitlements or Civil Rights, USCA Const. Amend. 13, Civil Rights Act of 1866, 42 USCA 1982, 28 USCA Sec. 1343 (4), together with Treaty of Medicine Lodge of 1867; LoneWolf v. Hitchcock, decided Jan. 5, 1903, 187 U. S. 553, and United States v. Kagama 118 U. S. 375 (b) (1886). LoneWolf proves the assumption of Congressional Good Faith with the KCA Indians and Kagama speaks to criminal matters re: jurisdiction and the need and reasoning behind federal wardship: DOES FEDERAL AUTHORITY EXTEND TO THIS CASE? KAGAMA: "It seems to us that this is within the competency of Congress. Their Indian tribes are the wards of the nation. They are community's dependant on the United States. Dependant largely for their daily food. Dependant for their political rights. They owe no allegiance to the states, and receive from them no protection. Because of local ill feelings, the people of the states where they are found are often their deadliest enemies. From the very weakness and helplessness, so largely due to the course of dealing of the Federal government with them and the treaties, in which it has been promised, there arises the duty of protection and with it the power. This has always been recognized by the executive and by congress, and by this court, whenever the question has arisen [in past cases such as Worcester v. Georgia.

The power of the general government over the remnants of a race, once powerful, and now diminished in numbers, is necessary in their protection, as well as the safety among whom they dwell. It must exist in that government, because it never has existed anywhere else,

because the theater of its exercise is within the geographical limits of the United States, because it never has been denied, and because it alone can enforce its laws upon the tribes.

The brief in opposition to Certiorari should be denied. Petitioners feel like an order for Certiorari should issue as Treaty of Medicine Lodge of 1867 and its provisions has been saddled with the Supreme Court's ruling in Santa Clara Pueblo v. Martinez relied upon here by respondents. That case saddles the KCA with onerous disabilities and burdens which have curtailed their rights to such an extent that their citizenship rights now have no operation. This holds true for many Indian tribes where those hamstrung strung tribes of citizens find their selves in the hands of law violators, violating civil rights statutes and denying Indians due process and equal protection of the laws. There are no remedies left in the tribes against racketeering tribal officials and BIA CFR Courts hold they have no jurisdiction over the culprits or over civil rights, statute laws matters. Tribes like the KCA, tribes have no tribal courts and tribes that have seriously limited jurisdiction. To insure they win election tribal crooks can deny the right to vote hold office and disenfranchise while they steal millions from casino money with the National Indian Gaming Commission claiming it a tribal matter. The Treaty of Medicine Lodge KCA Indians contracted for federal Government and for internal police whom BIA claims they are hampered and hamstrung by Santa Clara Pueblo v. Martinez prolixity, which is now rampant through Indian country. This needs the attention of the federal government in satisfaction of treaty rights to demand basic inalienable rights due. Due process and Equal protection under the law needs to be restored.

Again, the reason Indians cannot expect due process and equal protection of the law is Santa Clara Pueblo v. Martinez barrier. The Court should compare that case

with Shams PARLAVI, aka H.I.H. Princess Shams Pahlavi., A case brought by Bank Melli Iran, an Iranian Bank seeking enforcement of certain judgments (No, 94-555292) decided June 29. 1995, Ct, of Appls, Ninth Cir, 58 F, 3d 1406, 95 Daily Journals D.A.R. 8741. These cases points up that even foreign judgments are not enforced if the party was not likely to be given Due Process and Equal Protection under the law. Santa Clara Pueblo v. Martinez, supra, is regarded as threshold rejection of all Indian cases seeking relief from alleged tribal prosecutions where no due process can exist, no equal protection exists and no tribunals exist, and no form of equal justice is for, like in the present instance, and Section 6, is still alive and kicking, alleged in the Tenth Circuit in Tillett v, Lujan, 931 F 2d 636,640 (1991).

July 6, 2009.

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